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# **Office of the Inspector General**

Commonwealth of Massachusetts

**Gregory W. Sullivan**  
Inspector General

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## **The City of Quincy: Investigation into the Removal of Records and Erasure of Computer Files from the Former Mayor's Office**

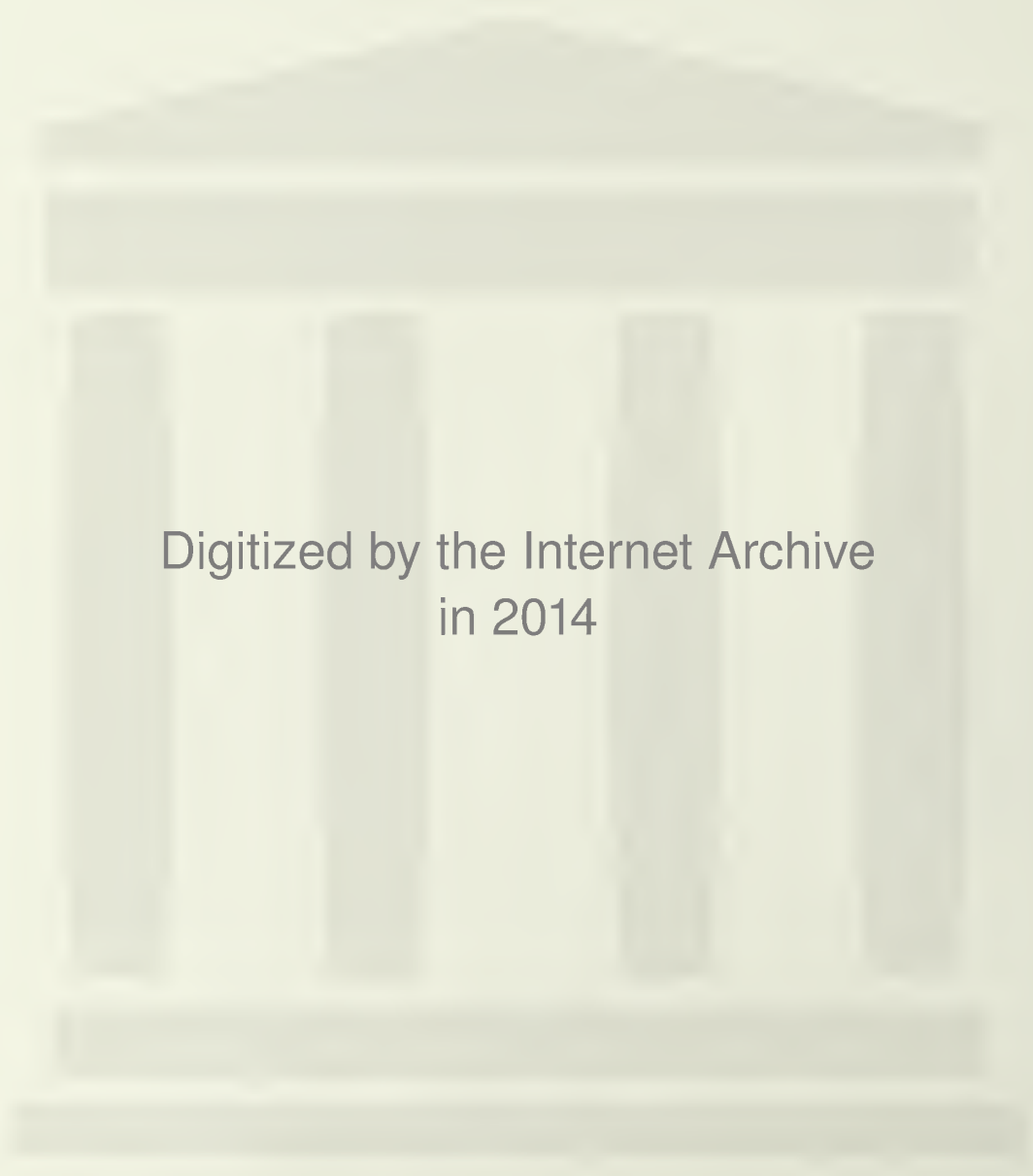
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## ***Executive Summary***

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In April 2002, Mayor William Phelan of the City of Quincy requested the assistance of the Office of the Inspector General in investigating the disappearance from the former Mayor's Office<sup>1</sup> of written records and computer files. The records and computer files had reportedly been removed from the former Mayor's Office prior to Mayor Phelan's inauguration as Quincy's new Mayor in January 2002. Mayor Phelan has advised this Office that his inability to review missing records and files resulted in serious transitional difficulties for the new administration. For example, the continuity of City business on important matters, such as a renegotiation of a lease with Quarry Hills Association, was seriously affected when Mayor Phelan could not locate documents for the Quarry Hills Golf Course project. Mayor Phelan expressed his opinion that the removal of records and the destruction of computer files were an assault on the trust placed in public officials by the citizens of Quincy.

During the investigation, the Office conducted several interviews with current and former City officials and staff. Included among those interviewed were the former Mayor of the City of Quincy, James A. Sheets, and individuals who served as his Assistant, Administrative Assistant, Secretary, and Receptionist/Clerk during his tenure as Mayor. The Office also interviewed the former City Solicitor, the City Clerk, several employees from the Information Technology Department, and an employee of the Department of Public Works.

The investigation revealed that prior to leaving Office, former Mayor Sheets removed and took possession of documents from the former Mayor's Office, including records stored in file cabinets and a printed copy of a "chronicle" reportedly consisting of synopses of the former Mayor's City meetings, and his comments, and conversations

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<sup>1</sup> The Mayor's Office is a suite, which contains a large reception area and several adjoining personal offices. The persons who occupied these offices under the previous administration included former Mayor James A. Sheets; the former Administrative Assistant; the former Assistant to the Mayor, and the former Executive Secretary.



pertaining to City matters.<sup>2</sup> The printed copy of the “chronicle” was maintained in binders by former Mayor Sheets during his 12-year tenure. The investigation also revealed that backup tapes to former Mayor Sheets’ “chronicle” and other City documents were in the possession of a former Assistant to Mayor Sheets.<sup>3</sup>

The investigation disclosed that employees in the Information Technology Department (ITD) stated that they were instructed to erase computer hard drives in the former Mayor’s Office. The Chief Information Officer, ITD informed this Office that he was instructed by former Mayor Sheets to “format”<sup>4</sup> the office computers.

As a result of the investigation, this Office recovered eight boxes of files and records removed from the former Mayor’s Office after the mayoral election of 2001. Seven of these boxes were obtained from former Mayor Sheets and one box was obtained from a former Assistant. Included among this information were files on the Squantum Gardens project, the U.S. Naval Shipbuilding Museum Corporation, the U.S.S. Salem, and other City projects. These records were furnished to the Federal Bureau of Investigation. In addition, this Office recovered four computer backup tapes that the former Mayor’s Assistant informed this Office contain information from former Mayor Sheets’ “chronicle.” These computer backup tapes were also delivered to the Federal Bureau of Investigation. Furthermore, the Office obtained three computer hard drives from computer workstations in the Office of Mayor Phelan, which had been used by former Mayor Sheets and his staff. Two of the three hard drives had been “formatted” prior to the time former Mayor Sheets left office and data on the third hard drive had been erased. Using computer forensic techniques, this Office discovered more than 5,000

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<sup>2</sup> This report refers both to former Mayor Sheets’ “chronicle” and “chronology.” For purposes of this report, these terms mean the same as described in the text above.

<sup>3</sup> Former Mayor Sheets had two Assistants at different intervals during his tenure as Mayor. For purposes of this report the Assistant who was employed by the former Mayor’s Office from January 1990 to June 2000 will be referred to as the predecessor to the former Mayor’s Assistant and the Assistant who was employed by the former Mayor’s Office from February 1995 to January 2002 will be referred to as the former Mayor’s Assistant.

<sup>4</sup> It is the understanding of this Office that the term “format” in the context of this case meant to erase all data on hard drives.

computer files, which were located on these hard drives. This Office delivered the three computer's hard drives to the Federal Bureau of Investigation. Finally, our investigation has identified the existence and in some cases, a possible location of other missing sources of data from the former Mayor's Office.

The Massachusetts Public Records Law, M.G.L. c.66, §10(a), ensures citizen access to public records. "Public records" are broadly defined under the law and include books, papers, recorded tapes and other documentary materials made or received by public officials.<sup>5</sup> In this Office's opinion, many of the written records removed from the former Mayor's Office were public records. Pursuant to the Public Records Law, M.G.L. c. 66, §14, former Mayor Sheets was required to deliver any public records in his custody to his successor, Mayor Phelan, upon expiration of his term of office, unless authorized by law to retain such public records. In doing so, the law required that former Mayor Sheets attest before the City Clerk that he faithfully and truthfully delivered the records.

Whoever has custody of any public records shall, upon the expiration of his term of office, employment, or authority, deliver over to his successor all such records which he is not authorized by law to retain, and shall make oath that he has so delivered them, accordingly as they are the records of the commonwealth or of a county, city or town, before the state secretary, the clerk of the county commissioners or the city or town clerk, who shall, respectively, make a record of such oath.

The City Clerk has informed this Office that he was never notified by former Mayor Sheets that he delivered City records to Mayor Phelan. Moreover, the City Clerk informed this Office that former Mayor Sheets never certified by oath that he had done so. In fact, former Mayor Sheets informed this Office that he left nothing in the cabinets and file drawers of his office because in his opinion there was nothing of significance to give Mayor Phelan.

Former Mayor Sheets has asserted that he removed personal property from his office including scrapbooks, photo albums, college lectures and the "chronicle." In support of his position that the "chronicle" was personal property, he advised that he sought advice

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<sup>5</sup> M.G.L. c. 4, §7(26).

from the former City Solicitor who informed him that he could consider personal notes maintained on his office computer to be his personal property. In an interview with this Office, the former City Solicitor stated that he had no recollection of providing such advice to former Mayor Sheets.

This Office sought an opinion from the Commonwealth's Supervisor of Public Records in the Secretary of State's office concerning whether former Mayor Sheets' chronicle was a public record. The Supervisor of Public Records response stated that "due to the various, on-going federal and state investigations concerning the author of these records, the Secretary of the Commonwealth has decided that an advisory opinion is not proper at this time."

It is the opinion of this Office that the removal of the written records from the former Mayor's Office and the erasure of the computer records should not have occurred. No record should have been removed from the former Mayor's Office unless a copy of it was known to be located in another City Department. Because virtually all of the records located in the former Mayor's Office were removed, it was impossible for the new Mayor to determine if any of the removed records existed in other City Departments. While former Mayor Sheets informed this Office that copies of some of the records he removed were located in other City Departments, he made no such assertion with respect to records he removed pertaining to Squantum Gardens, the U.S. Naval Shipbuilding Museum Corporation, and certain other categories.

This Office interviewed former Mayor Sheets twice during the investigation. During the initial interview, he orally identified the records that he removed from his office at the end of his tenure as mayor. In response to an M.G.L. c. 12A, §9<sup>6</sup> document request, former Mayor Sheets provided to this Office records pertaining to Squantum Gardens and the U.S. Naval Shipbuilding Museum Corporation and a project known as "Quincy 2000." This Office also obtained information from former Mayor Sheets ostensibly identifying other locations of records for City projects that were initiated under the

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<sup>6</sup> M.G.L. c. 12A §9 permits the Inspector General "access to all records, ...papers, ...[and] documents ...that is maintained by or available to any public body...."



Sheets Administration. These projects included the Quarry Hills Golf Course project, the High Point Housing project, the Faxon Park High School project, and City events.

To ensure against future circumstances where vital public records are missing, the Office offers the following recommendations:

- The City Solicitor and City Clerk should ensure strict adherence to the requirements of M.G.L. c. 66, §14 and M.G.L. c. 66, §8<sup>7</sup> in the future.
- The City Solicitor and City Clerk should jointly schedule periodic training to ensure that all City employees are fully apprised of their obligations under the Public Records Law.
- Create and disseminate to all employees an appropriate computer User Responsibility Policy including but not limited to defining:
  - Acceptable and unacceptable uses;
  - That there is no expectation of privacy with respect to information stored in these computers; and
  - Use of the computer system is consent to the policy.

Each employee should be required to sign and date a copy of this written policy.

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<sup>7</sup> This statute requires that original city records be maintained for seven years unless otherwise provided by law.

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## **Background and Introduction**

In April 2002, at the request of the Mayor of the City of Quincy, William Phelan, the Office of the Inspector General conducted an investigation to locate written records and computer files that were discovered missing from the former Mayor's Office in January 2002. Mayor William Phelan subsequently informed this Office that when he took office as Mayor of Quincy in January 2002, there were, with few exceptions, no computer or written records anywhere in the former Mayor's Office<sup>8</sup>. Based on conversations with several City employees, Mayor Phelan learned that there were many file cabinets full of records in the former Mayor's Office and that these records were removed prior to when he assumed office in January 2002.

When Mayor Phelan took office, the only records remaining on the former Mayor's computer hard drive were contained in a file that listed the names and terms of appointees of former Mayor Sheets. Mayor Phelan also examined the computer hard drive of the former Mayor's Assistant. Mayor Phelan advised that it appeared that there were no records remaining on the former Assistant's computer hard drive. Mayor Phelan stated that in addition, the hard drives from each of the remaining computers within the former Mayor's Office had been erased. Mayor Phelan concluded that when he took office, "everything was missing."

Due to the missing records and files, Mayor Phelan encountered serious transitional difficulties. For example, Mayor Phelan received numerous telephone calls from constituents inquiring about applications and payments that they had submitted to the former Mayor's Office regarding the City Memorial Brick/Veterans Memorial Project.<sup>9</sup> When Mayor Phelan looked for information concerning this project, he discovered that there were no records in the office. Mayor Phelan called the former Mayor's Assistant to inquire about the location of these records. Mayor Phelan learned from this individual that when she left at the end of former Mayor Sheets' term, she took a folder, containing

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<sup>8</sup> See footnote 1, *supra*, page i.

<sup>9</sup> This project continued under Mayor Phelan after being initiated during the Sheets administration.

the names of contributors and the amounts of their contributions for this project with her. The former Mayor's Assistant delivered the Memorial Brick/Veterans Memorial Project folder to Mayor Phelan shortly after his inquiry.

Mayor Phelan provided a second example involving the Quantum Gardens Senior Housing Project<sup>10</sup> and a related entity, the Elder Housing Corporation. The Mayor advised that pursuant to a signed oversight agreement, the City of Quincy had certain obligations regarding this project, including the responsibility to act as local monitor. Mayor Phelan stated that when he took office in January 2002, he could locate no documents on this project. Due to the absence of records, he was not apprised of ongoing negotiations between the Elder Housing Corporation and the Department of the Navy regarding the project. Further, he was unaware that the Mayors' Commission on the Family had been evicted from the project's location and that the Commission's Director had been cut from full-time to part-time without a corresponding salary cut. Likewise, Mayor Phelan was not aware that a project consultant was paid for work not performed.

Mayor Phelan offered a third example, involving the Quarry Hills Golf Course. He explained that in January 2002, Quarry Hills Associates (QHA) asked the City of Quincy for a two-year extension to the contract they had entered with the City. Mayor Phelan advised that he had no documents from the former Mayor's Office to consult when he entered negotiations with QHA regarding the contract extension request. He stated that he found no files in the former Mayor's Office containing a complete copy of the original lease or of the financial history of the project. He stated that there was no documentation relating to the environmental impact of the project in the former Mayor's

Office. He advised that the records in the City Solicitor's Office did not contain much of the information he needed.

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<sup>10</sup> The Quantum Gardens Senior Housing Project involves the lease of land by the City from the U.S. Department of the Navy for the purpose of assisting Quincy senior citizens in obtaining housing.



Mayor Phelan also provided details of several other instances in which his lack of access to City records caused significant problems for the conduct of business in the new administration. Mayor Phelan advised that in terms of day to day operations, there were no files on any constituent problems or concerns, so that when a citizen visited the Mayor to get a status report on an issue or concern, he or she had to start at the beginning of the process.

Mayor Phelan stated that occasionally he tracked down information on an issue from one of the other City departments. He stated that generally, however, there were no internal memoranda, and no files pertaining to matters that came before the City Council, the Zoning Board of Appeals, the Conservation Commission, or the Licensing Board. Departmental files for each of the fifteen or so municipal departments were also nonexistent. Finally, he stated that in his opinion, the removal of all of the records, documents, and files from the former Mayor's Office constituted an assault on the trust placed in public officials by the citizens of Quincy.

It is clear that knowing the history on any given issue or project better enables one to make responsible and well-informed decisions in a timely manner. Mayor Phelan stated that not having the records available was more than an inconvenience to him and his staff. It affected their negotiating position in more than one instance and their ability to protect the interests of the City and its citizens. Mayor Phelan advised that in many instances, a lot of time was spent attempting to reconstruct events or the history of a project, when this time would have been much better spent elsewhere.

Based on the information provided by Mayor Phelan, the Office determined that an investigation was warranted in an effort to locate the remaining missing written records and computer files.

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## ***Initial Investigation***

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This Office began its investigation to recover missing documents and computer files by interviewing several employees from the City of Quincy's Information Technology (IT) Department and the City Clerk. This Office obtained the following information based on these interviews.

### **Interview of the Systems Administrator**

The Systems Administrator for the City of Quincy's IT Department advised that he was contacted by newly-elected Mayor William Phelan who advised him that information was missing from computers located in the former Mayor's Office areas. The Systems Administrator was asked by the Mayor to look into this issue within the IT Department. The Systems Administrator subsequently learned from persons in the IT Department that after the election, former Mayor Sheets made a request of the IT Department to "format"<sup>11</sup> his office computer hard drives. The Systems Administrator had no knowledge of who received the initial telephone call to execute former Mayor Sheets' request. The Systems Administrator stated that he was advised that the computers had been formatted and in his opinion, it would be extremely difficult to retrieve the data. The Systems Administrator advised that there are five computers currently located in the new Mayor's Office that were previously used by the former administration and are all presently in use. These computers were not connected to the City computer network during the prior administration.<sup>12</sup> The Systems Administrator stated that he was also told that file cabinets in the former Mayor's Office had been emptied.

### **Interview of the Senior Computer Technician**

The IT Department's Senior Computer Technician, advised that the Chief Information Officer for the IT Department approached him and requested that he format all hard

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<sup>11</sup> It is the understanding of this Office that the term "format" in the context of this case meant to erase all data on hard drives.

<sup>12</sup> Although these computers were not connected to the City network, access to the City network was technically available.

drives in the former Mayor's Office. The Senior Computer Technician stated that he was apprehensive about doing this and questioned whether this was legal. The Senior Computer Technician advised that on or about November 30, 2001, the Chief Information Officer asked the Quincy City Clerk if he could legally proceed with the format. The Chief Information Officer subsequently informed the Senior Computer Technician that it was "alright" to format the hard drives and instructed him to proceed. On December 3, 2001, the Senior Computer Technician instructed a Computer Technician for the IT Department to format the hard drives in the former Mayor's Office and told her that he had checked to ensure that it was "OK" to do so.

The Senior Computer Technician advised that the computer hard drive of former Mayor Sheets' Executive Secretary, crashed in October 2001 and had to be replaced. There were more problems with the former Executive Secretary's new hard drive in November 2001. This time the files on the former Executive Secretary's new hard drive were backed up onto a tape.

### **Interview of IT Department Computer Technician**

The IT Department's Computer Technician advised that she recollected performing the formatting procedure for the computer hard drives in the former Mayor's Office sometime in November 2001. The Computer Technician stated that she was told to begin the hard drive formatting procedure with the hard drive of the former Mayor's Assistant. She next formatted the hard drive that belonged to former Mayor Sheets' Secretary and completed her task by formatting former Mayor Sheets' hard drive. The formats were performed over several days and all three hard drives were formatted on site. The Computer Technician was never asked to back up any information from the hard drives prior to the format. The Computer Technician used Gateway's restoration disks to format the hard drives and followed the disks' formatting instructions. The



Computer Technician stated that the restoration disks<sup>13</sup> format the hard drive and reset files and drivers. Each hard drive took an hour to format.

The Computer Technician believed that both former Mayor Sheets and former Mayor Sheets' Administrative Assistant had external hard drives<sup>14</sup> attached to their computers. According to the Computer Technician, the former Administrative Assistant's external hard drive broke and a new external hard drive was purchased by the Senior Computer Technician for the IT Department to replace it. The Computer Technician believed that the former Administrative Assistant's new external hard drive is currently attached to Mayor Phelan's computer.<sup>15</sup>

The Computer Technician stated that when the scheduled date came to format the former Administrative Assistant's computer hard drive, the former Administrative Assistant informed her that she had already done it herself. The Computer Technician assumed that the former Administrative Assistant had deleted her files and not "formatted" her hard drive.

### **Interview of the Operations Supervisor**

The Operations Supervisor for the IT Department advised that he set up a system to back up the data on former Mayor Sheets' hard drive onto computer backup tapes. This backup system ran in the middle of the night, every night. The Operations Supervisor would change the computer backup tape on a weekly basis provided that he was able to gain access to the former Mayor's Office. The Operations Supervisor stated that there

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<sup>13</sup> Restoration disks contain a copy of the operating system and programs that were originally contained on the hard drive when it was released from the manufacturer in "factory fresh" condition. The restoration process lays a copy of the operating system and other programs on top of the existing data in the hard drive that it is restoring. The result is that the existing information on the hard drive is "erased". Some of the "erased" data is nonetheless recoverable through the use of computer forensic tools and techniques.

<sup>14</sup> A self-contained data storage device connected to a computer by a cable.

<sup>15</sup> This Office has no knowledge of the current location of the former Administrative Assistant's broken external hard drive or former Mayor Sheets' original external hard drive.

was a locked vault in the basement of Quincy City Hall that contained the computer backup tapes of former Mayor Sheets and the former Administrative Assistant's hard drives. At the end of the Sheet's administration, former Mayor Sheets requested that the IT Department give him all archived computer backup tapes of his and the former Administrative Assistant's hard drives. The Operations Supervisor received the former Mayor's request through his supervisor, the Chief Information Officer for the IT Department, and subsequently turned the backup tapes over to the Chief Information Officer.

### **Interview of the Chief Information Officer**

The Chief Information Officer<sup>16</sup> for the IT Department, stated that the first call he received to format the computers in the former Mayor's Office came from former Mayor Sheets around the end of November or the beginning of December 2001. The Chief Information Officer told this Office that he discussed the issue of destroying records with the Quincy City Clerk because the Clerk is the Freedom of Information Officer. Both the Chief Information Officer and the City Clerk were aware that former Mayor Sheets kept a "diary" on his computer. The Chief Information Officer stated that the City Clerk advised him that it was permissible to remove the data because it was considered personal. The Chief Information Officer stated that he had no reason to believe that the other computers in the former Mayor's Office that were formatted contained only personal data.

On December 18, 2001, prior to his inauguration in January, newly-elected Mayor Phelan called the Chief Information Officer and stated that he wanted all data on the computers within the former Mayor's Office saved. According to the Chief Information Officer, at the time of Mayor Phelan's request to save the computer files, some of the

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<sup>16</sup> The Chief Information Officer left City employment in October 2002. Another person now holds that position.

computer hard drives had already been formatted.<sup>17</sup> The Chief Information Officer told this Office that he again went to the City Clerk to inquire about the matter. The City Clerk placed a call to the Secretary of State's Office. The Chief Information Officer stated that this was the first time that he had questioned his decision to delete the records. He stated that he called the computer manufacturer to inquire about the recovery of information after a hard drive has been formatted and was advised that the data was not recoverable. The Chief Information Officer met with former Mayor Sheets at the former Mayor's Office to discuss the request of the Mayor-elect. The Chief Information Officer stated that the former City Solicitor and the former Mayor's Administrative Assistant were present in former Mayor Sheets' office during the discussion. The Chief Information Officer stated that he asked former Mayor Sheets for some direction on this issue. Although there were few files remaining on the computers, former Mayor Sheets told the Chief Information Officer that he could not copy the computer files.

Sometime later, former Mayor Sheets' Administrative Assistant called the Chief Information Officer and requested that he format her computer hard drive. The Chief Information Officer advised this Office that he refused to do it.

The Chief Information Officer stated that he purchased a laptop computer for the former Mayor's Assistant. When the former Mayor's Assistant left City employment, she returned the laptop computer to the Chief Information Officer. According to the Chief Information Officer, the laptop computer of the former Mayor's Assistant has all her files intact and it has been stored in his former office since her departure.

The Chief Information Officer advised that in October 2001, the computer hard drive of former Mayor Sheets' Executive Secretary was returned to the manufacturer, Gateway. The Chief Information Officer stated that within the same month, the IT Department received a new hard drive from Gateway and installed it in the former Executive

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<sup>17</sup> However, the backup tapes for the computer files may still have existed. While the computers had been formatted, the computer data requested by the new Mayor may have been available from the backup tapes. See interview of the Operations Supervisor, *supra* pgs. 7-8.



Secretary's computer. This hard drive is still in the computer previously used by the former Executive Secretary and any data that was on this hard drive since October 2001, may still be on the computer.

### **Interview of the City Clerk**

The Quincy City Clerk told this Office that the Chief Information Officer met with him sometime shortly after the mayoral election but prior to December 15, 2001. According to the City Clerk, the Chief Information Officer told him that Mayor-elect Phelan was looking for office records from the prior administration and that he had approached former Mayor Sheets with Mayor Phelan's request for office records. The City Clerk said that the Chief Information Officer sensed that former Mayor Sheets was not going to comply with the request. The City Clerk stated that it was his belief that the Chief Information Officer had already "wiped" the former Mayor's hard drive and that the data was "already gone." The City Clerk stated that the Chief Information Officer also told him that he thought that the contents of the former Mayor's computer were City records. The City Clerk said this prompted him to call the Secretary of State's Office. He spoke with an employee of the Secretary of State's Office and asked her advice on the difference between public and private records stored in a City-owned PC.

The City Clerk later stated that another employee of the Secretary of State's Office reviewed the "Guide to Public Records" (Guide) with him. The City Clerk advised that after the election, (the first or second week of December), he sent former Mayor Sheets a copy of the Guide which listed what could and could not be disposed of.

(It should be noted that in the interview with the Chief Information Officer, *supra*, pgs. 8-10, he stated that he met with the City Clerk regarding the contents of former Mayor Sheets' computer on two separate occasions. Moreover, he advised that prior to the formatting of former Mayor Sheets' hard drive, he was told by the City Clerk that it was permissible to destroy data because it was considered personal.)

The City Clerk was interviewed a second time and advised that after the mayoral election of November 2001, the Chief Information Officer sought his advice pertaining to



the erasure of files from former Mayor Sheets' office computer. The City Clerk stated that he never gave the Chief Information Officer permission to destroy computer records stored in former Mayor Sheets' computer. The City Clerk stated that he was certain about the first time the Chief Information Officer approached him for advice about the erasure of records and files from former Mayor Sheets' office computer. He advised that this occurred after the Chief Information Officer received a request from Mayor-elect William Phelan to save all information maintained in the former Mayor's Office computers. The City Clerk stated that during his conversation with the Chief Information Officer, he clearly got the impression that computer records and files had already been erased from former Mayor Sheets' computer.

The City Clerk advised that in late 1999 or early 2000, former Mayor Sheets held a meeting on the Public Records Law, which featured the City Clerk as the guest speaker. The City Clerk stated that the staff of former Mayor Sheets, along with representatives from various City departments, attended this meeting. The City Clerk stated that during the meeting he reviewed the contents of the "Guide to Public Records" which included the records retention schedule and guidelines for the destruction of records. The City Clerk advised that he gave former Mayor Sheets' staff a copy of the Administration and Personnel Records Retention Schedule. (This Schedule contains the regulations of the Secretary of State's Office pertaining to the destruction and disposal of municipal records.) He stated that he also gave them a copy of the "Guide to Public Records,"<sup>18</sup> which addressed any public records concerns pertaining to their Office. The City Clerk stated that after that meeting he was never contacted again by the former Mayor's Office for advice on public records.

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<sup>18</sup> The writer believes that the City Clerk was referring to the "Guide to Public Records" published by the Office of the Secretary of State.

The City Clerk advised this Office that he was never notified by former Mayor Sheets that he delivered City records to Mayor Phelan. The City Clerk stated that former Mayor Sheets never took an oath before him certifying that he had done so.

## ***Second Phase of the Investigation***

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After conducting the initial interviews, it was determined by this Office that further investigation was warranted in order to locate the missing written records and electronic files.

### **Interview of the Former Administrative Assistant to Mayor Sheets**

The Former Administrative Assistant to Mayor Sheets advised this Office that her position was “functionally” equivalent to an Assistant Chief of Staff position. She explained that her duties included serving as: the City’s special projects manager to state agencies, the City’s main liaison to Quincy Hospital, a member of the MBTA Advisory Board, a member of the Boston Harbor Island Board, and a member of the Community Advisory Board to Massport. She also worked on City development projects to bring business into Quincy e.g. tourism promotion.

The former Administrative Assistant stated that before leaving City employment she took her office files and disbursed them to their respective departments throughout the City. The former Administrative Assistant advised that 60% of her office files pertained to Quincy Hospital. She gave the Quincy Hospital files to the City Clerk to take to the State archives in South Boston. The former Administrative Assistant advised that 99% of her office files for City tourism consisted of brochures, which she sent to the Director of Special Events and Tourism for the City. According to the former Administrative Assistant, the City Planning Department has copies of all files pertaining to the Southern Tide Mill property acquisition. Because the Southern Tide Mill property became privatized, the new owners also have “records”. The former Administrative Assistant stated that she left a letter, which explained the disbursement of the files in her office, a copy of the City’s emergency evacuation plan, the MBTA files and “other files” and a copy of the “most useful” telephone numbers for her successor.

The former Administrative Assistant initially stated that she believed that her computer hard drive was formatted because old programs had been removed from it. She later stated that she was “trying to remember if there was a “cleaning” of office computers.

The former Administrative Assistant said that she could not remember if anyone spoke to her about formatting office computers. She advised that she did not delete files from her office computer.

### **Interview of a Former Secretary to Mayor Sheets**

A former Secretary to Mayor Sheets was interviewed and advised this Office that there were two sets of five-drawer file cabinets next to her desk in the former Mayor's Office. She stated that these cabinets contained records that were used by everyone in the former Mayor's Office. These file cabinets contained memos from various City department heads and files on anything from affordable housing to the Southern Tide Mill Project. The former Secretary advised that after she returned to work on the Monday after Thanksgiving 2001, former Mayor Sheet's Executive Secretary, came out of former Mayor Sheets' office and informed her that the former Mayor wanted the Quarry Hills file. When the former Secretary opened the drawer to the file cabinet next to her desk to retrieve the file, she found the file drawer empty. Upon further examination, she discovered that all the drawers of the two file cabinets next to her desk had been emptied. According to the former Secretary, the former Executive Secretary advised her that former Mayor Sheets had cleaned out the file cabinets next to her desk over the weekend.

The former Secretary stated that the former Mayor went to his office on weekends to pack-up materials from his personal office. On January 4, 2002, the former Secretary observed plastic file boxes in former Mayor Sheets' personal office. Former Mayor Sheets asked the former Secretary to shred a lot of old letters from various City department heads. The former Secretary stated that Mayor Phelan was left with nothing.

### **Interview of the Former Receptionist/Clerk for Mayor Sheets**

The former Receptionist/Clerk for Mayor Sheets, was interviewed and stated that the file cabinets next to the former Secretary's desk also included copies of legal claims against the City, personnel files, and memos from former Mayor Sheets regarding the repair of



certain streets. The former Receptionist/Clerk advised that she took off from work the day before Thanksgiving 2001 and did not return until the following Tuesday. According to the former Receptionist/Clerk, when she returned to work, the former Secretary told her that file cabinets in the office had been emptied. Prior to her departure from her employment at the former Mayor's Office in January 2002, the former Receptionist/Clerk ordered 60 plastic bins from W.B. Mason for former Mayor Sheets' personal effects. She advised that before she left, any data that was on her computer was placed in the computer's recycle bin.

### **Interview of an employee of the Quincy Department of Public Works**

An employee of the Quincy Department of Public Works advised that he learned from two co-workers, who have the responsibility of rubbish pick-up at City Hall, that a normal trash pick-up at City Hall consisted of two trash cans full of discarded material. After the election, the normally light evening trash pick-ups at City Hall were increased ten-fold. Many black plastic trash bags full of shredded material were left out for pick-up every night. After the election, the employee observed DPW trucks arriving at the DPW with boxes of documents. He stated that the DPW was to dispose of these boxes of documents, which originated from offices in City Hall. According to the employee, he looked at some of the documents contained in the boxes and saved certain boxes containing documents pertaining to road and other DPW contracts.

### **Interview of the Former Mayor's Assistant (dates of service: February 1995 to January 2002)**

On May 22, 2002, investigators of this Office interviewed the former Mayor's Assistant (former Assistant) who served from February 1995 to January 2002. The former Assistant stated that all original paperwork concerning issues addressed by the Mayor's Office could be found in their respective departments within the City, (e.g. documents on the Quarry Hills project are in the Solicitor's Office and/or Planning Department, etc.). The former Assistant said that the former Mayor's Office maintained only copies of these documents. She stated that she was in charge of the Veterans Memorial

project and the Walk of Names project.<sup>19</sup> She stated that when she left her job with the City, she took folders pertaining to these projects because she intended to remain on committees associated with each project. She said that she wrote a letter to her successor, explaining the progress of these committees. The former Assistant stated that after questioning from the Mayor-elect's office, she dropped off the folders pertaining to these projects on March 18, 2002 at the Mayor's Office. She stated that before leaving City employment, she forwarded all money pertaining to these projects to the City Auditor's Office with the exception of two checks, which she was unable to process. The former Assistant stated that former Mayor Sheets had a blue binder with pertinent telephone numbers, which she thought he left behind for Mayor Phelan. She stated that she assumed that all the computer hard drives in the former Mayor's Office had been formatted with the exception of a computer located in the back of the Office, which contained information on the "brick program."

The former Assistant stated that at the time of her departure, she also took the tape backup disk of former Mayor Sheets' computer. She stated that this disk contained the former Mayor's "chronology." She explained that the "chronology" consisted of former Mayor Sheets' notes of his daily activities. (Former Mayor Sheets has referred to these materials as his "chronicle.")

During a later interview, the former Assistant provided a further explanation of former Mayor Sheets' "chronology." She advised that the "chronology" contained twelve years of former Mayor Sheets' notes from his twelve years serving as Mayor of Quincy. She stated that these notes were synopses of former Mayor Sheets' meetings, dinners, Mayor's conferences, trips, weekend functions, and other daily activities. The former Assistant stated that the former Mayor used the "chronology" as a backup reference for himself to refresh his memory on the numerous meetings and encounters he had as former Mayor.

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<sup>19</sup> This report has also referred to these projects as the Memorial Brick/Veterans Memorial Project.

The former Assistant stated that former Mayor Sheets began keeping e-mails on his office computer approximately one year before the end of his tenure as former Mayor. She advised that the former Secretary would print out the former Mayor's e-mails on a daily basis. The former Assistant said that the former Mayor would also write letters on his office computer to various department heads but probably erased them to free up space on his computer hard drive.

At the conclusion of the interview, the former Assistant provided investigators of this Office with four computer backup tapes of former Mayor Sheets' "chronology." This Office turned over these backup tapes to the Federal Bureau of Investigation.

**Interview of the Former Assistant's Predecessor (dates of service: January 1990 to June 2000)**

The former Assistant's predecessor served in the former Mayor's Office from January 1990 to June 2000. She was interviewed by investigators of this Office and advised that she had access to former Mayor Sheets' office computer during her employment. She stated that former Mayor Sheets used his office computer to write memos and letters to various department heads within the City. The former Assistant's predecessor advised that once printed, these documents were erased from former Mayor Sheets' office computer in order to save space on his office computer hard drive. She advised that beginning in approximately 1990, through the late 1990s, former Mayor Sheets kept correspondence and documents, relating to "everything and anything" on City of Quincy business, filed in three ring binders. The former Assistant's predecessor stated that there were approximately two to three dozen binders, which were stored in cabinets in former Mayor Sheets' office. The former Assistant's predecessor stated that she kept an index on former Mayor Sheets' office computer, which cross-referenced the correspondence and documents kept in these binders.

The former Assistant's predecessor stated that former Mayor Sheets also kept a "chronology" on his office computer. She stated that the "chronology" consisted of synopses of former Mayor Sheets' meetings and an ongoing commentary of his daily activities. She stated that after typing into the computer based "chronology," she would



print out the entries for that day and place them into a binder. (This became the hard copy version of former Mayor Sheets' "chronicle/chronology.") The former Assistant's predecessor advised that a binder held approximately nine months to one year of former Mayor Sheets' transcribed computer notes. She stated that the hard copy "chronology" consisted of approximately eight to twelve binders, which were kept in a cabinet in former Mayor Sheets' office at the time she left employment at the former Mayor's Office.

### **Interviews of Former Mayor James A. Sheets**

Investigators of this Office interviewed former Mayor James A. Sheets on June 24, 2002. Former Mayor Sheets stated that throughout his administration he held a staff meeting every morning at 7:00 a.m. with his former Executive Secretary and former Administrative Assistant. During these meetings, he would open the daily mail. Most mail consisted of claims against the City, invitations to attend ribbon cutting ceremonies, and constituent request correspondence. Claims against the City would be sent to the City Solicitor's Office for processing. The former Mayor would write notes on the invitations to attend ribbon-cutting ceremonies and constituent request correspondence, and give them to his former Secretary. The former Secretary would write letters or memos to department heads addressing the issues raised in the constituent correspondence. Former Mayor Sheets stated that he would initially keep copies of the constituent request correspondence and invitations in his desk drawer. Later in the year, he would turn them over to the former Office Receptionist to add their names to the Christmas card list. According to former Mayor Sheets, he would not see these materials again.

Former Mayor Sheets referred to the file cabinet located next to the Secretary's desk in the former Mayoral Office Suite and stated that the bottom two drawers belonged to his former Secretaries. He said he examined the contents of these file drawers on only a few occasions during his administration and had no knowledge of the circumstances surrounding the disappearance of files from these drawers. (During the May 22, 2002



interview with the former Mayor's Assistant, she stated that the bottom two file drawers contained legal claims against the City of Quincy).

Former Mayor Sheets stated that before leaving office, he spent two Saturdays and a Sunday alone in his office evaluating and disposing of its contents. Former Mayor Sheets provided a summary of the present location of all files, documents, and records that were kept in his office up to the final week of his administration. He advised that the top drawers of the file cabinet mentioned above and two cabinets located in his office consisted of folders from non-profit organizations. According to former Mayor Sheets, the folders consisted of the U.S. Naval Shipbuilding Museum Corporation and the Squantum Gardens project. Former Mayor Sheets advised that he serves as Chairman of a committee related to the U.S. Naval Shipbuilding Museum Corporation. The former Mayor stated that he worked with the non-profit organizations during City time. Former Mayor Sheets stated that Mayor Phelan would have no involvement in either of these projects. He advised that he took these files from his office for historical purposes. Former Mayor Sheets stated that at a later date, he intended to pass the Squantum Garden files on to the management corporation taking over the project and intended to donate the U.S. Naval Shipbuilding Museum Corporation files to the U.S. Naval Shipbuilding Museum and Eastern Nazarene College.

Former Mayor Sheets stated that he was a member of the U.S. Conference of Mayors and attended the twice-annual meetings. He also stated that he had one and a half file cabinets of material, dating as far back as 1990, pertaining to these conferences. Former Mayor Sheets stated that he placed these files in the trash because he considered the material dated and of no use to anyone.

Former Mayor Sheets stated that he had a drawer of documents on "Quincy 2000" which are presently in his possession. "Quincy 2000" is a private non-profit corporation dedicated to promoting business interest for the City of Quincy. Former Mayor Sheets serves on its board of directors. Former Mayor Sheets stated that documents pertaining to this corporation are also on file with "Quincy 2000" and the City's Planning and Law Departments.

Former Mayor Sheets stated that he had one-third of a drawer full of National Boating Safety Advisory Council (NBSAC) information. NBSAC is a voting advisory board on promoting safety on all federal waters. Former Mayor Sheets stated that because he is an active member of this board, he took all pertinent information and has it in his possession.

Former Mayor Sheets advised that he has eleven files on "Southeastern Massachusetts Atlantic Canadian Mayors Association" (SEMACMA). SEMACMA fosters trade, tourism, and economic development between the eastern seaboard and Atlantic Canada. Former Mayor Sheets did not think this material would be of interest to Mayor Phelan.

Former Mayor Sheets said he also disposed of dated miscellaneous materials. For example, there were eight to ten dated proposals on the deregulation of electricity. He stated that once a decision was made on an issue there was no need to keep the proposals.

Former Mayor Sheets said that his personal office housed a credenza with personal memorabilia. His file cabinets contained a ten-year accumulation of expense receipts for every trip taken as former Mayor. Copies of these receipts are in the City Solicitor's Office and in former Mayor Sheets' home in Quincy.

According to former Mayor Sheets, he stored cartons of Quincy College materials in his office. These cartons consisted of his personal lectures and books. As a result of reviewing their contents, the former Mayor sent six boxes of books to the Quincy Public Library.

Former Mayor Sheets stated that he also kept in his office scrapbooks full of articles on issues and events from his time served as former Quincy City Councilor and former Mayor of Quincy. In addition, he had thirty-two photo albums with over seven thousand pictures (paid for by the Committee to Elect Jim Sheets) taken during his tenure as former Mayor. All are presently at his home in Quincy.

Former Mayor Sheets stated that he took the position that the Mayor is not the primary custodian of documents. He explained that he possessed working documents of

proposals and projects only. According to former Mayor Sheets, upon their completion, all related primary documents were sent to their proper, respective departments, (e.g. documents on the Quarry Hills project are in the Solicitor's Office and the DPW). Copies of these files were not maintained in the former Mayor's Office. Former Mayor Sheets stated he left nothing in the cabinets and file drawers of his office for the incoming Mayor because he determined there was nothing of significance to give him.

As the interview continued, former Mayor Sheets was advised by investigators of this Office that IT personnel had advised them that after the election of November 2001, they were instructed to format the computer hard drives in the former Mayor's Office. Former Mayor Sheets responded that employees of his office functioned on their own and he instructed them to remove personal information from their computers. He stated that he was unsure of IT's instruction to format the office computer hard drives. He said that he requested the removal of all data from his personal computer and personal data from the other computers in the former Mayor's Office. Former Mayor Sheets stated that he did not know who would have instructed the IT Department to format these computer hard drives unless they misinterpreted his earlier statement to remove everything from his personal computer. Former Mayor Sheets stated that he might have used the word "format", unaware of its implications, and thought that it was subject to "interpretation."

Former Mayor Sheets stated that when he initially took office as Mayor, he spoke with the former City Solicitor and informed him he wanted to keep "personal notes" on his computer. Former Mayor Sheets advised this Office that he sought the advice of the former Solicitor because he was concerned about the ownership of the data. Former Mayor Sheets stated that the former Solicitor assured him that the data would be his personal property. Former Mayor Sheets referred to these notes as his "chronicle." He stated that at the time he left office, his "chronicle" contained twelve years of notes as former Mayor, which consisted of synopses of every meeting, personal comments, and private conversations. He stated that his "chronicle" was the only file maintained on his computer. Former Mayor Sheets said that the City's IT Department created a backup disk of his computer hard drive. A printed copy of the "chronicle" is at his home in



Quincy. Former Mayor Sheets stated that he was concerned about sharing his “chronicle” because of confidentiality agreements that he made with certain unnamed individuals. The “chronicle” included private conversations, references to projects between unions and the former Mayor’s Office, and his own personal comments about people that he met.

Former Mayor Sheets summed up the files in his possession as follows:

- Non-profit organization – U.S. Naval Shipbuilding Museum Corporation
- Non-profit organization– Squantum Gardens
- SEMACMA – Southeastern Massachusetts Atlantic Canadian Mayors Association (11 files)
- NBSAC – National Boating Safety Advisory Council (1/3 drawer full)
- Speeches
- “Quincy 2000” – Private non-profit corporation promoting business in Quincy
- Travel receipts
- Tax Classification Booklet

Former Mayor Sheets declared the following items to be his personal property:

- Scrapbooks dating back to City Council days through the end of his mayoral administration
- 32 photo albums with 7,000 pictures depicting the former Mayor performing official duties
- Printed copy of the former Mayor’s “chronicle” - 12 years of notes (and the computer backup disk in the possession of former Assistant)
- Six boxes of college lectures, etc.

Former Mayor Sheets stated that he met with Mayor Phelan four times after the election. Since then, Mayor Phelan has never requested his assistance. He said that his staff had no one to communicate with regarding transitional issues because of the late appointment of Mayor Phelan’s staff. Former Mayor Sheets stated that no one from



the present administration has asked or called about files, computers, etc. and that he “would assist them tomorrow if asked.”

Former Mayor Sheets was interviewed a second time. During this second interview, he advised that he still had in his possession files pertaining to “Quincy 2000” and would produce them at a later date. He also provided an explanation for the tax classification booklet that he took with him when he left office. He explained that the tax classification booklet is a publication prepared by the Chairperson of the Board of Assessors, suggesting the tax rate percentage for all classifications of City property. He attempted to locate the tax classification booklet but was unsuccessful. Former Mayor Sheets stated that a copy of the tax classification booklet could be obtained upon request from the City Assessors Office.

He stated that he had no records in his possession pertaining to the Quarry Hills Golf Course (Quarry Hills) project. He advised that the Quarry Hills project was assigned to a taskforce headed by the former Commissioner of Public Works. Former Mayor Sheets stated that the best resources for Quarry Hills records within the City would be the Department of Public Works (DPW), the Auditor's Office, and the Solicitor's Office. Former Mayor Sheets stated that records for the project could also be located outside the City at the Massachusetts Highway Department, the Metropolitan District Commission (MDC), and the Quarry Hills Associates.

Former Mayor Sheets stated that he had no records in his possession pertaining to the High Point Housing (High Point) project. Former Mayor Sheets said that he was not involved in any negotiation agreements regarding this project. He advised that the High Point project was zoned as a Planned Unit Development (PUD) by the City Council. Former Mayor Sheets suggested that records pertaining to High Point could be located within the City Council offices, the City Solicitor's Office, the City Planning Department, the Conservation Commission, and the DPW.

Former Mayor Sheets stated that he had no records in his possession pertaining to the Faxon Park High School project (Faxon Park). He stated that this project was assigned to a taskforce chaired by the former Commissioner of Public Works. Former Mayor

Sheets stated that the DPW and School Department should have all of the Faxon Park records. He advised that his best source of information regarding this project was found in the School Committee meeting minutes, which are maintained by the School Department.

Former Mayor Sheets advised that agreements between the MWRA and City of Quincy pertaining to mitigation payments made to the City for housing its sludge plant were made under the McCauley Administration. Former Mayor Sheets stated that he did not recall any correspondence between his office and the MWRA regarding mitigation payments. He stated that he would have learned about the mitigation agreements between the City and the MWRA by obtaining temporary documents from the DPW and City Solicitor's office.

Former Mayor Sheets stated that the former event coordinator for the City coordinated events including: First Night, Presidents Day, Family Day, and road races. He stated that her office was located in the Park Department and all records related to the above events should be there. Former Mayor Sheets stated that a non-profit corporation was created for the Christmas Parade. Former Mayor Sheets stated that records pertaining to any City involvement in the Christmas Parade might be found at the DPW and Police Department.

Former Mayor Sheets advised that he kept binders filled with records on short-term and long-term projects from 1990 to 1992 but discarded them and began to make his "chronicle" more extensive to include this information. He stated that he would meet every Monday with all City department heads to review the progress of every City project. He advised that he would meet every Wednesday with development groups, City department heads, a Quincy business group, a representative of "Quincy 2000" etc. Former Mayor Sheets stated that he would take notes during these meetings and make them part of his "chronicle." He advised that he would rely on the "chronicle" to keep him apprised of the issues involved in City business.

## **Interview of the Former City Solicitor**

A former City Solicitor was interviewed and stated that he was Solicitor for the City of Quincy from February 1990 to February 2002. The former City Solicitor advised that as City Solicitor, he was chief legal advisor to former Mayor Sheets. The former City Solicitor stated that he did not recall during his twelve years as City Solicitor having a conversation with former Mayor Sheets regarding the contents of former Mayor Sheets' office computer. The former City Solicitor was advised that former Mayor Sheets had informed this Office that he had consulted with the former City Solicitor about the personal nature of information on his computer and that the former City Solicitor had advised him that the data would be the former Mayor's personal property. The former City Solicitor stated that he could not recall ever giving such advice to former Mayor Sheets.

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## ***Recovery of Computer Files***

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On April 10, 2002, investigators from this Office arrived at the Office of the Mayor of Quincy to remove certain computer hard drives from computer workstations in the Mayor's Offices. The investigators met with the Deputy City Solicitor, the Senior Computer Technician, and the Chief Information Officer.

Mayor Phelan released a total of three computer hard drives to investigators from this Office. Among these hard drives was one that had been installed in the computer workstation used by the former mayoral Administrative Assistant. Also included among the released hard drives was the hard drive from the computer currently being used by Mayor Phelan and which former Mayor James Sheets had previously used. In addition, an external hard drive connected to this computer was also removed at this time.<sup>20</sup>

Upon return to this Office, the investigators began to process the three computer hard drives using computer forensic techniques. All hard drives were processed using software and hardware which ensured that no alteration to the data being acquired or the data remaining on the hard drives would occur.

On April 23, 2002, the investigators began an automated fourteen-hour keyword search using words provided by a Deputy Chief and a former Deputy Inspector General of this Office. The investigators also examined the data taken from the three hard drives by conducting "spot checks" of the data in order to identify the types of files and kinds of data which were stored on these three drives. Using various computer forensic tools, the investigators discovered over 5000 files which were located on these hard drives.

This Office delivered to the Federal Bureau of Investigation the hard drive that had been used by former Mayor James A. Sheets, the external hard drive attached to it, and the hard drive used by the former Administrative Assistant.

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<sup>20</sup> It should be noted that this Office did not take the hard drives from computers previously used by the former Mayor's Assistant and the former Secretary. There may be information on these formatted hard drives that can be recovered through the use of computer forensic techniques.

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## ***Recovery and Review of Written Records***

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On October 16, 2002, this Office issued document requests to former Mayor James A. Sheets and his former Assistant. These document requests were issued pursuant to M.G.L. c.12A, §9, and sought the cooperation of these persons in providing certain documents in their possession, custody or control. This Office specifically, requested the following:

All information, records, and documents removed from the City of Quincy files and office space, excluding photographs and [former Mayor Sheets'] "chronicle."

After receiving the documents request, former Mayor Sheets contacted this Office to advise that the Squantum Gardens files which he had in his possession belonged to the Elder Housing Corporation of Squantum Gardens and the U.S. Naval Shipbuilding Museum files belonged to the U.S. Naval Shipbuilding Museum. Former Mayor Sheets advised that he was in the process of making arrangements to turn these records over to their proper owners. This Office later advised former Mayor Sheets that he should produce the Squantum Gardens and U.S. Naval Shipbuilding Museum records and all other records in his possession that he took when he left office with the exception of his "chronicle" and photographs.

On Monday, October 28, 2002, former Mayor Sheets caused seven boxes of files to be delivered to this Office. Upon an initial examination of these boxes, this Office found that four boxes contained Squantum Garden records and three boxes contained U.S. Naval Shipbuilding Museum Corporation records. No other materials were received from former Mayor Sheets at this time.<sup>21</sup> As a result of a second interview with former Mayor Sheets, at a later date, this Office collected records from him pertaining to

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<sup>21</sup> Former Mayor Sheets stated during his interview with this Office that he had in his possession 11 files on SEMACMA, materials on NBSAC, Quincy 2000, travel receipts, and a copy of the Tax Classification Booklet. Former Mayor Sheets also mentioned items he thought to be his personal property i.e. scrapbooks and college lectures.

"Quincy 2000." He was unable to locate the tax classification booklet that he had previously informed this Office that he had in his possession.

On November 4, 2002, this Office received one carton of materials from the former Mayor's Assistant. Upon examination of this carton, this Office discovered materials pertaining to the U.S.S. Salem, the U.S. Naval Shipbuilding Museum Corporation, Squantum Gardens, NABSAC, the "Brick Program," and Waterworks.

All of the records provided to this Office by former Mayor Sheets and his former Assistant were turned over to the Federal Bureau of Investigation.



## ***Existence and Location of Other Possible Data Sources***

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Based on interviews conducted by this Office, it is our belief that the data contained in electronic files used by former Mayor James A. Sheets, the former Assistant, and the former Administrative Assistant to the Mayor may exist on other computers and/or media.<sup>22</sup> Moreover, in some instances our investigation has disclosed possible locations for these other computers and media. Details regarding this information are set forth below:

- Hard copy binder of the “chronicle” which is presently in the possession of former Mayor Sheets. Based on interviews with the former Mayor’s Assistant and former Mayor Sheets.
- Numerous binders filled with correspondence and documents relating to City of Quincy business which were stored in cabinets in the former Mayor’s Office. Based on an interview with the predecessor to the former Mayor’s Assistant<sup>23</sup> – location unknown.
- Possibility of second external hard drive that was attached to former Mayor Sheets’ office computer – location unknown. Based on interview with the Computer Technician.
- The former Mayor’s Assistant’s original hard drive (formatted) believed to be currently in the Mayor’s Office. No indication from any interview that this hard drive was removed from the former Mayor’s Office.
- The former Mayor’s Assistant’s intact laptop computer that was in the Chief Information Officer’s possession. Based on interview with the Chief Information Officer.
- Broken external hard drive that belonged to the former Administrative Assistant’s office computer – location unknown. Based on interview with the Computer Technician.
- The former Secretary’s formatted hard drive – possibly located in the Mayor’s Office. Based on interview with the Computer Technician.

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<sup>22</sup> The use of the term “media” in the context of this report means printed hard copies, computer backup tapes, and external hard drives.

<sup>23</sup> See footnote 3, *supra*, page ii

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## ***Conclusion and Recommendations***

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This Office recovered eight boxes of files and records, which had been removed from the former Mayor's Office after the mayoral election of 2001. In addition, this Office was able to forensically discover a substantial amount of information on two computer hard drives that had been "formatted" prior to the time former Mayor Sheets left office. We also discovered information, which had been previously erased from an external hard drive. Furthermore, four computer backup tapes appearing to contain City business and representing former Mayor Sheets' "chronicle" have been recovered. The written records, computer hard drives and backup tapes have been turned over to the Federal Bureau of Investigation.

Former Mayor Sheets advised that he had no records in his possession pertaining to important City issues such as the Quarry Hills Golf Course project, the High Point Housing project, the Faxon Park High School project, agreements between the MWRA and the City of Quincy pertaining to mitigation payments for the City to house the MWRA sludge plant, or City events. However, former Mayor Sheets provided information suggesting the best resources within the City that would have records on file for each of the areas of City business listed above. Finally, our investigation has identified the existence and possible location of other missing sources of data from the former Mayor's Office.

The central unresolved issue raised during this investigation is whether any public records were improperly removed and whether computer files were improperly erased from the Office of the former Mayor in violation of the Commonwealth's public records requirements. M.G.L. c. 66, §8<sup>24</sup> specifically requires that public records be kept in conformance with a retention schedule, which generally is seven years. According to a

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<sup>24</sup> M.G.L. c. 66, §8 requires that the original city records be kept for seven years unless otherwise provided by law or unless such records are included in disposal schedules approved by the Supervisor of Public Records for city records. The statute also states that no record shall be destroyed without the written approval of the Supervisor of Records.

publication issued in October 2000 by the Secretary of the Commonwealth entitled "A Guide to the Massachusetts Public Records Law" (Guide):

The Massachusetts General Laws broadly define 'public records' to include all documentary materials or data, regardless of physical form or characteristics, which are made or received by any officer or employee of any Massachusetts governmental entity. As a result, all photographs, papers and electronic storage media including electronic mail of which a government employee is the 'custodian' constitute 'public records.'<sup>25</sup>

This expansive definition of the term "public records" would include many of the written records, documents, and files that were removed from the former Mayor's Office. Likewise, it would include the data erased from computer hard drives in the former Mayor's Office. M.G.L. c. 66, §14<sup>26</sup> specifically requires those in possession of public records to deliver them to their successor upon expiration of their term of office unless authorized by law to retain them. It is this Office's opinion that the removal of the written records from the former Mayor's Office and the erasure of the computer records violated the Public Records Law and should not have occurred.

Accordingly, it is the recommendation of the Inspector General that in the future, the City Solicitor and City Clerk ensure strict adherence to the requirements of M.G.L. c. 66, §14 and M.G.L. c. 66, §8. Strict compliance with M.G.L. c. 66, §14 and M.G.L. c. 66, §8 will properly preserve records of public business and prevent the significant transitional difficulties experienced by the City's Mayor-elect.

It is also recommended that the City Solicitor and the City Clerk, as the principal record custodian of the City, provide appropriate periodic training on M.G.L. c. 66, §8, to

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<sup>25</sup> *A Guide to the Massachusetts Public Records Law*, William Francis Galvin, Secretary of the Commonwealth Public Records Division, October 2000, page 5.

<sup>26</sup> M.G.L. c. 66, §14 states, "Whoever has custody of any public records shall, upon the expiration of his term of office, employment or authority, deliver over to his successor all such records which he is not authorized by law to retain, and shall make oath that he has so delivered them, accordingly as they are the records of the commonwealth or of a county, city or town, before the state secretary, the clerk of the county commissioners or the city or town clerk, who shall, respectively, make a record of such oath."



ensure that City employees are aware of their responsibilities under the Massachusetts Public Records Law.

It is recommended that the City create and disseminate an appropriate written computer User Responsibility Policy that makes clear to all employees that the computers provided to them for their employment are property of the City. The policy should explain both the acceptable and unacceptable uses of City computers. Moreover, the policy should state that all information located on these computers is property of the City. It is recommended that the policy state that employees have no reasonable expectation of privacy with respect to the information contained in the computers. The policy should explain that use of the computer system is consent to the policy. Each employee should be required to sign and date a copy of the written policy. The signed copies should be maintained in the City Clerks Office or another appropriate area. Implementation of this policy will nullify claims that information contained within City computers is the personal property of employees.

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## ***Appendix: Response of Quincy Mayor William Phelan***

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